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7

8 IN THE UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 SEATTLE DIVISION

11	MICHAEL THOMAS,	)	Case No.
12		)	
13	vs.	)	NOTICE OF REMOVAL OF GREEN
14	FLAGSTAR BANK, NA and GREEN TREE	)	TREE SERVICING LLC
15	SERVICING, LLC	)	(Removed from King County Superior
		)	Court Case No. _____)
	Defendants.	)	

16  
17 TO THE COURT AND ALL PARTIES HERETO:

18 PLEASE TAKE NOTICE that defendant Green Tree Servicing LLC (the  
19 "Removing Defendant" or "Green Tree") hereby removes to this Court the Superior  
20 Court action described below, pursuant to 28 U.S.C. § 1441. This Court has jurisdiction  
21 pursuant to 28 U.S.C. §§ 1332 (diversity) and 1441(c) (supplemental jurisdiction).

22 1. Plaintiff purports to be citizen of Washington and the owner of a parcel of  
23 land in King County, Washington (Complaint ¶ 2). Green Tree received its first notice of  
24 this action when it was served process on July 27, 2015. A true and correct copy of the  
25 transmittal regarding the Removing Defendant's receipt of the Complaint is attached as  
26 Exhibit 1.

NOTICE OF REMOVAL OF GREEN TREE SERVICING  
LLC - Page 1

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2. It is unknown whether co-defendant Flagstar Bank, NA ("Flagstar") has been served with process.

3. Pursuant to Local Rule 101(b), the operative complaint is attached as Exhibit 2.

4. Plaintiff served the complaint and Summons on Removing Defendant on July 27, 2015. Removing Defendant's counsel hereby certifies that a true copy of the Summons is attached as Exhibit 3. To date, Plaintiff has not filed any documents in the Superior Court. Therefore, there are no Superior Court documents to file pursuant to Local Rule 101.

5. Removing Defendant served a Notice of Appearance on Plaintiff on August 7, 2015. A true and correct copy of the Notice of Appearance is attached hereto as Exhibit 4.

6. This Notice of Removal complies with 28 USC § 1446(b)(1) because it is being filed within 30 days of Removing Defendant having received notice of this action on July 27, 2015.

7. **INTRADISTRICT ASSIGNMENT**. Pursuant to 28 U.S.C. § 1441(a) and LCR 3(d)(1), this Court is the appropriate venue because this action is being removed from the Superior Court of King County.

8. Pursuant to 28 U.S.C. § 1446(d), Removing Defendant is contemporaneously filing with the clerk of the Superior Court for the County of King a Notice of Filing of Notice of Removal with an attached true and correct copy of this Notice of Removal, and is serving these same papers upon Plaintiff's counsel. A true and correct copy of the Notice of Filing of Notice of Removal, without attachments, is attached as Exhibit 5.

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**I. This Court Has Jurisdiction Over This Matter**

A. This Court has jurisdiction pursuant to 28 U.S.C. § 1332. There is complete diversity between the parties. Plaintiff is a citizen of Washington. Green Tree is a Delaware Limited Liability Company with its principal place of business in St. Paul, Minnesota. Flagstar is a national bank headquartered in Troy, Michigan.

B. Under LCR 101(a), a reasonable reading of Plaintiff's Complaint is that Plaintiff is seeking damages in an amount greater than the \$75,000 minimum jurisdictional amount of the court. Plaintiff's Complaint seeks injunctive and declaratory relief as well as an unspecified amount of damages. The reasons Green Tree has a good faith belief that plaintiff is seeking damages in excess of the jurisdictional amount of the court are:

(1) Plaintiff filed suit to stop the foreclosure of the deed of trust securing the loan on Plaintiff's property (Complaint ¶ 1);

(2) Plaintiff claims to have suffered "significant damages" as a result of Green Tree's actions "including but not limited to emotional damages connected to the fear of losing his home, money damages in terms of the cost to file this lawsuit and default fees and charges in connection with an ongoing foreclosure." (Complaint ¶¶ 22, 33).

(3) Plaintiff alleges that he is entitled to "actual damages; treble damages pursuant to RCW 19.86.090; [and] costs of suit, including a reasonable attorney's fee . . ." (Complaint ¶ 27).

(4) Plaintiff seeks exemplary damages from Green Tree, claiming that "Green Tree acted in bad faith in deliberate or reckless disregard" of plaintiff's rights. (Complaint ¶ 28).

Therefore, it is reasonable to conclude that Plaintiff's claims against Green Tree exceed \$75,000.

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1           D.     Further, the loan secured by Plaintiff's property has a principal balance of  
 2     \$381,082.70, and according to information available on the website of the King County  
 3     Assessor's Office, the property at issue has a tax-assessed value in 2015 of \$508,000.  
 4     See Exhibits 6 (loan balance) and 7 (tax assessment). The amount at issue and/or the  
 5     potential loss to Removing Defendant if the Court grants the requested relief therefore  
 6     exceeds \$75,000. See *In re Ford Motor Co./Citibank (So. Dakota), N.A.*, 264 F.3d 952,  
 7     958 (9th Cir. 2001) (amount in controversy may be measured by potential loss to  
 8     defendant); *Olander v. ReconTrust Corp.*, No. C11-177 MJP, 2011 U.S. Dist. LEXIS  
 9     22397, \*6-8 (W.D. Wash. Mar. 7, 2011) (denying remand of wrongful foreclosure and  
 10    fraud action removed from Snohomish County Superior Court and noting: "where a  
 11    plaintiff seeks to invalidate a loan secured by a deed of trust, the amount-in-controversy  
 12    is the loan amount").

13           E.     Co-Defendant Flagstar has not appeared in the case and it is unknown  
 14    whether Flagstar has been served with process. Accordingly, Flagstar's consent is not  
 15    required to remove the case at this time. See *Destfino v. Reiswig*, 630 F.3d 952, 956  
 16    (9th Cir. 2011) ("All defendants who have been 'properly . . . served in the action' must  
 17    join a petition for removal" (quoting *Emrich v. Touche Ross Co.*, 846 F.2d 1190, 1193  
 18    n. 1 (9th Cir. 1988))).

19  
 20           DATED this 17th day of August, 2015.

21                           SUSSMAN SHANK, LLP

22                           By /s/ William G. Fig  
 23                                 William G. Fig, WSBA 33943  
 24                                 Attorneys for Green Tree Servicing LLC

CERTIFICATE OF SERVICE

THE UNDERSIGNED certifies:

1. My name is Kori L. Morehead. I am a citizen of Washington County, state of Oregon, over the age of eighteen (18) years, and not a party to this action.

2. On August 17, 2015, I caused to be delivered **via email and first-class U.S. Mail, postage prepaid**, a copy of: **NOTICE OF REMOVAL OF GREEN TREE SERVICING LLC** to the interested parties of record, addressed as follows:

Kathleen Box  
Leen & O'Sullivan PLLC  
520 East Denny Way  
Seattle, WA 98122  
Email: [katy@leenandosullivan.com](mailto:katy@leenandosullivan.com)  
Attorneys for Plaintiff

I SWEAR UNDER PENALTY OF PERJURY that the foregoing is true and correct to the best of my knowledge, information, and belief.

/s/ Kori L. Morehead  
Kori L. Morehead, Legal Assistant

\*22428-086\NOTICE OF REMOVAL (02162887);1